



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-3644 FAX (603) 271-2181



Gasoline Merchants, Inc.
17 Valleyview Road
Pelham, New Hampshire 02145

Re DES Site # 199907012
Getty Station #55274
32 Bridge Street
Pelham, NH 02145

ADMINISTRATIVE ORDER
No. WMD 3-22

September 8, 2003

A. INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, Waste Management Division to Gasoline Merchants, Inc. pursuant to RSA 146-A. This Administrative Order is effective upon issuance.

B. PARTIES

1. The Department of Environmental Services, Waste Management Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, NH 03301.
2. Gasoline Merchants, Inc. is a New Hampshire corporation having a mailing address of 17 Valleyview Road, Pelham, NH 02145.

C. STATEMENTS OF FACTS AND LAW

1. RSA 146-A authorizes DES to minimize contamination of the waters and land of the state due to oil discharge or spillage. Pursuant to RSA 146-A:11-c, the Commissioner of DES has adopted NH Administrative Rules Env-Wm 1403 to implement this program.
2. RSA 146-A:15 authorizes the Commissioner of DES to impose administrative fines of up to \$2,000 per offense for violations of RSA 146-A, including any rule adopted pursuant thereto. Pursuant to RSA 146-A:15, the Commissioner of DES has adopted Env-C 606 to establish the schedule of fines for such violations relating to oil spills.
3. Gasoline Merchants, Inc. is the owner of six (6) permanently closed USTs: three 8,000-gallon gasoline tanks; one 10,000-gallon diesel tank; one 10,000-gallon gasoline tank; and one 15,000-gallon gasoline tank. The USTs have been removed. The USTs were located at Getty Station #55274, 32 Bridge Street, Pelham, NH 02145 further identified by the DES site number 199907012 ("the Facility").
4. The Facility is subject to the requirements of RSA Chapter 146A and NH Administrative Rules Env-Wm 1403.

5. Env-Wm 1403.07 requires that following notification of a violation of the groundwater quality criteria pursuant to Env-Wm 1403.06, the legally responsible party shall investigate the site and the off-site surrounding area for possible impacts of the contamination.
6. In a letter dated July 16, 1999, DES requested a site investigation ("SI") from Gasoline Merchants, Inc. for Getty Station #55274. Env-Ws 412.10 requires Gasoline Merchants, Inc. to submit the SI to DES within 120 days of DES notification. However, Gasoline Merchants, Inc. was unresponsive to this request.
7. In a letter dated June 18, 2001, DES made a second request to Gasoline Merchants, Inc. for the SI.
8. On November 15, 2001, DES received the SI from Environmental Compliance Services, Inc. on behalf of Gasoline Merchants, Inc. Upon review, the SI report did not meet all the requirements set forth by Env-Wm 1403.07. Four requirements were not met. The following four items were needed to satisfy SI requirements: a color photocopy of a USGS map which clearly identified the site location; a Data Summary Table; a Potential Receptors Map; and the boring log for monitoring well MW-11.
9. In a letter dated January 28, 2002, DES requested the information needed to satisfy the requirements in accordance with Env-Wm 1403.07.
10. To date, Gasoline Merchants, Inc. has not provided a complete site investigation report as required by Env-Wm 1403.07.

D. DETERMINATION OF VIOLATIONS

1. Gasoline Merchants, Inc. has violated Env-Wm 1403 by failing to submit a complete site investigation report in accordance with Env-Wm 1403.07.

E. ORDER

Based on the above findings, DES hereby orders Gasoline Merchants, Inc. as follows:

1. **By September 30, 2003**, submit the following information to complete the site investigation report received by DES on November 15, 2001 in accordance with Env-Wm 1403.07. The requirements of a site investigation report include:
 - (a) color photocopy of a USGS map that clearly identifies the site location;
 - (b) a Data Summary Table;
 - (c) a Potential Receptors Map; and
 - (d) the boring log for monitoring well MW-11 (referenced, but not found in Appendix F).
2. **In September 2003 and November 2003**, conduct additional rounds of groundwater sampling. Submit the results of these sampling events **by October 30, 2003 and January 15, 2004** respectively.
3. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

Gary Lynn, P.E., Supervisor/Oil Remediation and Compliance Bureau
DES Waste Management Division
P.O. Box 95
Concord, NH 03302-0095
Fax: (603) 271-2181
e-mail: glynn@des.state.nh.us

F. APPEAL

Any person aggrieved by this Order may appeal the Order to the Waste Management Council by filing an appeal that meets the requirements specified in Env-WMC 200 within 30 days of the date of this Order. Copies of the rule are available from the DES Public Information Center at (603) 271-2975 or at <http://www.des.state.nh.us/desadmin.htm>. Appealing the Order does not automatically relieve Gasoline Merchants, Inc. of the obligation to comply with the Order.

G. OTHER PROVISIONS

Please note that RSA 146-A provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself.

This Order is being recorded in the Hillsborough County Registry of Deeds so as to run with the land.


Philip J. O'Brien, Ph.D., P.G., Director
Waste Management Division


Michael P. Nolin, Commissioner
Department of Environmental Services

Certified Mail/RRR: 7000 1670 0000 0584 7586

Enclosure: AOC #WMD-3-22-2003

cc: **Gretchen Rule, DES Legal Unit**
Public Information Officer, DES PIP Office
Jennifer J. Patterson, Sr. Asst. Attorney General, NHDOJ/EPB
Pelham Health Officer
James Stewart, Getty Petroleum Marketing